

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

RUTHES C. HOLEYFIELD,

Plaintiff,

v.

Case No. 23-cv-1046-pp

MILWAUKEE COUNTY JAIL,

Defendant.

**ORDER DISMISSING CASE WITHOUT PREJUDICE FOR PLAINTIFF'S
FAILURE TO PAY INITIAL PARTIAL FILING FEE**

On September 14, 2023, the court ordered that if the plaintiff wanted to continue with this lawsuit, then by the end of the day on October 9, 2023, he was required to pay \$3.57 as an initial partial filing fee. Dkt. No. 7. The court's order stated that if it did not receive from the plaintiff the initial partial filing fee, or a request for more time to pay it, by the end of the day October 9, 2023, the court would dismiss the case and the plaintiff still would owe the \$350 filing fee. Id. The October 9, 2023 deadline passed almost two weeks ago, and the court has not received either the initial partial filing fee or a request for more time to pay it.

When the plaintiff filed the complaint, he indicated that he was incarcerated at Green Bay Correctional Institution. Dkt. No. 1 at 1. The Wisconsin Department of Corrections locator web site indicates that the plaintiff remains at that facility as of the date of this order.

<https://appsdoc.wi.gov/lop/details/detail>. The court has not received a

change-of-address notice from the plaintiff. The court sent its September 14, 2023 order to the plaintiff at Green Bay Correctional Institution, and the order was not returned as undeliverable. The court has no reason to believe that the plaintiff did not receive the court's order.

Because the court did not receive the initial partial filing fee, or a request for more time to pay it, by the October 9, 2023 deadline, the court will dismiss this case without prejudice for the plaintiff's failure to pay the initial partial filing fee.

The law requires any incarcerated person who files a civil lawsuit to pay the statutory filing fee. 28 U.S.C. §1915(b)(1). The court will collect the \$350 statutory filing fee.

The court **DENIES AS MOOT** the plaintiff's motion for leave to proceed without prepaying the filing fee. Dkt. No. 2.

The court **ORDERS** that this case is **DISMISSED WITHOUT PREJUDICE** because the plaintiff did not pay the initial partial filing fee by the deadline the court set. The clerk will enter judgment accordingly.

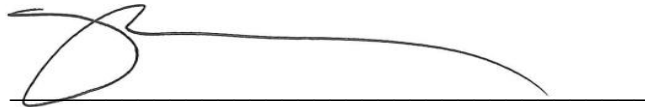
The court **ORDERS** that the agency that has custody of the plaintiff must collect from his institution trust account the **\$350** filing fee by collecting monthly payments from the plaintiff's prison trust account in an amount equal to 20% of the preceding month's income credited to the plaintiff's trust account and forwarding payments to the clerk of court each time the amount in the account exceeds \$10 in accordance with 28 U.S.C. §1915(b)(2). The agency must clearly identify the payments by the case name and number. If the

plaintiff transfers to another county, state or federal institution, the transferring institution must forward a copy of this order, along with the plaintiff's remaining balance, to the receiving institution.

The court will send a copy of this order to the warden at Green Bay Correctional Institution.

Dated in Milwaukee, Wisconsin this 23rd day of October, 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
Chief United States District Judge